

REMARKS/ARGUMENTS

Claims 24-30 are presented for the Examiner's consideration. Independent claim 24 is directed to a mask for use with a ventilator or a CPAP device which comprises a frame and a cushion. The cushion, in cross section, has a generally U-shaped configuration defining a face contacting surface (e.g., 116 as shown in Figure 3A and the corresponding description thereof at paragraphs [0047]-[0047] of the original application). The U-shaped configuration of the cushion includes an inner leg which is proximal to the frame and an outer leg defining a distal end spaced away from the frame. A recess is defined between the first and second legs of the cushion. The recess is positioned opposite to the face contacting surface.

This subject matter is shown in Figures 1-3A of the original application and corresponding description thereof.

Applicants respectfully elect the newly presented embodiment of Figures 24-28 for examination. This election is made without traverse.

In view of the above amendments and remarks, Applicants respectfully submit that all the claims are patentable and that the entire application is in condition for allowance.

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140 under Order No. PTB-4398-407.

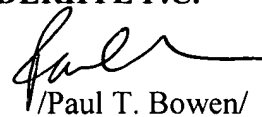
BERTHON-JONES et al.
Appl. No. 10/523,607
June 1, 2009

Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, he is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____



/Paul T. Bowen/

Paul T. Bowen
Reg. No. 38,009

PTB:jck
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100